

## § 1639.50

## 5 CFR Ch. VI (1–12 Edition)

directly considered by an official or employee of the Board, and the determination required under paragraph (c) of this section has been made by an official or employee of the Board, any unresolved dispute with the debtor regarding whether all or part of the debt is past due or legally enforceable must be referred to the Board for ultimate administrative disposition, and the Board must directly notify the debtor of its determination.

### Subpart D—Administrative Offset

#### § 1639.50 Applicability and scope.

(a) The regulations in this subpart apply to the collection of debts owed to the Board, or from a request for an offset received by the Board from a Federal agency. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3716). The regulations in this subpart are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office as set forth in 4 CFR 102.3.

(b) The Executive Director, after attempting to collect a debt owed to the Board under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset, subject to the following:

(1) The debt is certain in amount; and  
(2) It is in the best interest of the Board to collect the debt by administrative offset because of the decreased costs of collection and acceleration in the payment of the debt.

(c) The Executive Director may initiate administrative offset with regard to debts owed by a person to a Federal agency, so long as the funds to be offset are not payable from net assets available for Thrift Savings Plan benefits. The head of the creditor agency, or his or her designee, must submit a written request for the offset with a certification that the debt exists and that the person has been afforded the necessary due process rights.

(d) The Executive Director may request another agency that holds funds payable to a Fund debtor to pay the

funds to the Board in settlement of the debt. The Board will provide certification that:

(1) The debt exists; and

(2) The person has been afforded the necessary due process rights.

(e) If the six-year period for bringing action on a debt provided in 28 U.S.C. 2415 has expired, then administrative offset may be used to collect the debt only if the costs of bringing such an action are likely to be less than the amount of the debt.

(f) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years unless facts material to the Board or a Federal agency's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(g) The regulations in this subpart do not apply to:

(1) A case in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute; or

(2) Debts owed to the Board by Federal agencies or by any State or local government.

#### § 1639.51 Notice procedures.

Before collecting any debt through administrative offset, the Board will send a notice of intent to offset to the debtor by certified mail, return receipt requested, at the most current address that is available to the Board. The notice will provide:

(a) A description of the nature and amount of the debt and the intention of the Board to collect the debt through administrative offset;

(b) An opportunity to inspect and copy the records of the Board with respect to the debt;

(c) An opportunity for review within the Board of the determination of the Board with respect to the debt; and

(d) An opportunity to enter into a written agreement for repaying the amount of the debt.

#### § 1639.52 Board review.

(a) A debtor may dispute the existence of the debt, the amount of debt, or the terms of repayment. A request to